

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

CLERK'S OFFICE U.S. DISTRICT COURT
AT LYNCHBURG, VA
FILED
9/2/2022
LAURA A. AUSTIN, CLERK
BY: A. Little
DEPUTY CLERK

EMERSON CREEK POTTERY,

Plaintiff,

v.

EMERSON CREEK EVENTS, et al.

Defendants.

CASE NO. 6:20-cv-54

ORDER

JUDGE NORMAN K. MOON

This action came before the Court on February 22 to February 25, 2022, for a trial by jury. Plaintiff adduced evidence and rested. Defendant adduced evidence and rested. This case proceeded to a jury verdict on February 25, 2022. The jury returned a verdict form and special interrogatories attached hereto, in favor of the Plaintiff. *See* Dkt. 114.

All post-trial motions being resolved, and none altering the verdict, it is hereby **ADJUDGED AND ORDERED** that the jury verdict be and hereby is filed. All motions made during trial are shown on the transcript together with the action thereon. Accordingly, Judgment is entered for the Plaintiff, and the case is dismissed from this Court's active docket.

It is so **ORDERED**.

The Clerk of Court is directed to send a copy of this order to all counsel of record and to strike this case from the Court's active docket.

Entered this 2nd day of September 2022.
August


NORMAN K. MOON
SENIOR UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA
FILED

FEB 25 2022

JULIA G. DUDLEY, CLERK
BY: *[Signature]*
DEPUTY CLERK

EMERSON CREEK POTTERY, INC.,

Plaintiff,

v.

EMERSON CREEK EVENTS, INC., et al.

Defendants.

Case No. 6:20-cv-54

Judge Norman K. Moon

VERDICT FORM AND SPECIAL INTERROGATORIES

Breach of Licensing Agreement Claim (Count IV)

Question 1: Does Plaintiff have a valid trademark in the mark "Emerson Creek"? [See Jury Instruction # 11].

Yes ☒ No ☐

Question 2: Did Plaintiff and Defendants enter into an express licensing agreement? [See Jury Instruction # 13]

Yes ☒ No ☐

If you answered "yes" to Question 2, please answer questions 4–8. If you answered "no" to Question 2, please go to Question 3.

Question 3: Did Plaintiff and Defendants enter into an implied licensing agreement? [See Jury Instruction # 13]

Yes ☐ No ☐

If you answered "yes" to Question 3, please answer questions 4–8. If you answered "no" to Question 3, please skip Questions 4–8 and go to Question 9.

Question 4: What names were covered by the parties' licensing agreement? (check all that apply)

- ☒ "Emerson Creek"
- ☒ "Emerson Creek Pottery"
- ☒ "Emerson Creek Pottery & Tearoom"
- ☒ "Emerson Creek Events"

Question 5: What services were covered by the licensing agreement? (check all that apply)

☒ Gift shop services

☒ Restaurant services

☒ Events services

Question 6: Did Plaintiff exercise adequate control over the nature and quality of services offered by Defendants under the mark? [See Jury Instruction # 15]

Yes ☒ No ☐

If you answered "no" to Question 6, please skip Questions 7 and 8 and proceed to Question 9.

Question 7: Did Defendants breach the licensing agreement? [See Jury Instruction # 12]

Yes ☒ No ☐

Question 8: What is the amount of damages for which Defendants are liable for their breach of the licensing agreement? (write the amount you award in the blank provided below) [See Jury Instruction # 23]

Amount (\$): 5,119.51

Please continue to Question 9.

**Trademark Infringement Claims and
False Suggestion of Affiliation or Sponsorship Claim (Counts I, II, and III)**

Only answer Question 9 if you find: that Defendants did not have a license to use Plaintiff's trademark; that Defendants violated the license; or that Defendants continued to use Plaintiff's trademark after Plaintiff revoked the license. Otherwise, please continue to END. [See Jury Instruction # 14]

Question 9(a): (Only answer this question if you found that Plaintiff owns the trademark "Emerson Creek" above in Question 1). Did Defendants infringe Plaintiff's trademark "Emerson Creek"? [See Jury Instructions # 16, 17]

Yes ☒ No ☐

Question 9(b): Did Defendants infringe Plaintiff's "Emerson Creek Pottery" trademark? [See Jury Instructions # 16, 17]

Yes ☒ No ☐

If you answered "yes" to either or both of Questions 9(a) or (b), please answer questions 10–13. If you answered "no" to Question 9, please proceed to END.

Question 10: Did Defendants act willfully in infringing Plaintiff's trademarks, knowing they were infringing or acting with indifference to Plaintiff's trademark rights? [See Jury Instruction # 22]

Yes ☒ No ☐

Question 11: Did Plaintiff acquiesce to Defendants' infringement of Plaintiff's trademark? [See Jury Instruction # 18]

Yes ☐ No ☒

Question 12: Did Defendants use the marks "Emerson Creek" or "Emerson Creek Pottery" in a manner likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, sponsorship, or association between Defendants and Plaintiff? [See Jury Instruction # 19]

Yes ☒ No ☐

Question 13: What is the amount Defendants should pay for their infringement of Plaintiff's trademark and their unfair competition and false designation of origin? (write the amount you award in the blank provided below) [See Jury Instructions # 20, 21]

Amount (\$): 2 million
(2,000,000.00)

NAME REDACTED

Foreperson

2-25-22

Date

END